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October 1, 2004

VIA ELECTRONIC FILING

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Notice of Ex Parte Presentations in CC Docket Nos. 96-45
Petitions of TracFone Wireless, Inc. for Designation as an Eligible
Telecommunications Carrier in the States of New York, Florida
and Virginia and Petition for Forbearance

Dear Ms. Dortch:

On September 29, 2004, F.J. Pollak, President and CEO of TracFone Wireless, Inc. ("TracFone") Gustavo Blanco, Chief Financial Officer of TracFone, and I met with Jessica Rosenworcel, Legal Advisor to Commissioner Michael Copps, and with Sam Feder and Daniel Gonzalez, Legal Advisors to Commissioner Kevin Martin. On September 30, 2004, Messrs. Pollak, Blanco and I met with Jeffrey Carlisle, Chief, Wireline Competition Bureau, and with Richard Lerner, Thomas Buckley, Anita Cheng, Narda Jones, and Margaret Dailey, all of the Wireline Competition Bureau. Also, on that date, Mr. Pollak, Mr. Blanco, Diane Blagman of this law firm and I met with Commissioner Jonathan Adelstein. Mr. Pollak, Mr. Blanco and I met with Christopher Libertelli, Legal Advisor to Chairman Michael Powell. In addition, Mr. Pollak and I met with Matthew Brill, Legal Advisor to Commissioner Kathleen Abernathy.

During each of these meetings, we discussed TracFone's petitions for designation as an Eligible Telecommunications Carrier (ETC) in the States of New York, Florida and Virginia, and its petition for forbearance from application or enforcement of Section 214(e)(5) of the Communications Act and Section 54.201(i) of the Commission's rules so as to allow TracFone to be designated as an ETC notwithstanding the fact that it owns no transmission facilities and provides Commercial Mobile Wireless Service through the resale of services of underlying vendors. During these meetings, we provided each attendee with a summary of TracFone's position regarding its request for ETC designation. A copy of that summary is enclosed herewith.

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Pursuant to Section 1.1206(b) of the Commission's Rules, this notice is being filed electronically in the above-captioned dockets. If you have any questions regarding this matter, please feel free to contact undersigned counsel for TracFone.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mitchell F. Brecher', with a long horizontal flourish extending to the right.

Mitchell F. Brecher

Enclosure

cc: The Honorable Jonathan Adelstein
Ms. Jessica Rosenworcel
Mr. Daniel Gonzalez
Mr. Sam Feder
Mr. Jeffrey Carlisle
Mr. Richard Lerner
Ms. Anita Cheng
Mr. Thomas Buckley
Ms. Narda Jones
Ms. Margaret Dailey
Mr. Christopher Libertelli
Mr. Matthew Brill

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TRACFONE WIRELESS, INC.
REQUEST FOR ELIGIBLE TELECOMMUNICATIONS CARRIER
DESIGNATION

- TracFone, the nation's provider of prepaid wireless service, has petitioned for ETC designation in New York, Florida, and Virginia; plans to seek ETC status in additional states.
- TracFone provides wireless service in all 50 states, plus territories – wherever wireless service is available, TracFone service is available.
- TracFone views itself as a “universal service provider” since it markets service largely to low income, low volume consumers on a “pay-as-you-go basis, with no contracts, no credit checks, no volume or term commitments.
- TracFone has petitioned for forbearance from application or enforcement of § 214(e)(5) of Act and § 54.201(i) of the Commission's rules to allow TracFone, as a pure reseller, to be an ETC. In its forbearance petition, TracFone has shown that
 - Enforcement of § 214(e)(5) and § 54.201(i) are not necessary to ensure just and reasonable and not unreasonably discriminatory rates and practices;
 - Enforcement is not necessary to protect consumers;
 - Forbearance will serve the public interest by promoting competitive market conditions.
- TracFone meets all criteria for ETC designation and will provide all services required by ETCs.
- If designated as an ETC TracFone seeks to offer a Lifeline Service only; it does not plan to seek high cost support from the Universal Service Fund.
- TracFone will accept a condition limiting it to funding to support its Lifeline service. [note: unlike AT&T, TracFone does not seek a change in the rules to establish separate eligibility criteria for Lifeline-only ETCs. Lifeline has met all eligibility criteria].
- TracFone's proposed Lifeline proposal:
 - \$25.00 for 250 prepaid minutes (\$0.10 per minute) – will not expire for one year.
 - No additional charges for roaming or long distance calling.
 - Additional subsidized prepaid cards can be purchased as needed.

- Service will include all features including voice-mail, Caller ID, call waiting, inbound SMS messaging (outbound SMS messaging will be available for \$0.05 per message).
- Discounts on new and refurbished handsets.
- E-911 availability (even when phones have no remaining minutes).
- TracFone's proposal will have minimal impact on universal service fund.
- TracFone's proposal meets all public interest criteria established in Virginia Cellular and Highland Cellular cases:
 - Benefits of competitive choice (will make the convenience and flexibility of wireless service affordable to low income consumers)
 - Will have *de minimis* impact on universal service fund
 - Will ensure high service quality by committing to comply with CTIA Consumer Code.
 - Will be able to deploy Lifeline service in a reasonable time based on its existing contracts with more than 30 underlying carriers.

Oppositions to TracFone's ETC petitions, filed by current ETCs (mostly ILECs) do not warrant denial of petitions.

- FCC's 1997 concern about "double recovery" if resellers are ETCs is not applicable to wireless resellers like TracFone which do not resell services which are subsidized by universal service fund.
- Lifeline program is underutilized (about 33% nationally, much lower in some states). TracFone will increase utilization by low income consumers who qualify for Lifeline.
- As a reseller, TracFone will be able to ensure dependable, quality service by holding its carriers accountable and moving customers to other networks where necessary.

TracFone's ETC proposal widely supported by the consumer and public interest communities with supporting comments filed by such groups as LULAC, New York PIRG, the National Consumers League, the Sustainable Markets Coalition and others.